

**IN THE DISTRICT COURT OF THE UNITED STATES  
For the Western District of New York**

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November 2008 GRAND JURY  
(Empaneled 11/07/2008)

THE UNITED STATES OF AMERICA

-vs-

**INDICTMENT**

ALEX KOSCHTSCHUK, a/k/a AL and BOSS,  
CLYDE UTZ, a/k/a BUTCHIE,  
JAMES LATHROP, a/k/a JIMMY,  
BRION MURPHY,  
GERALD ROGACKI, and  
MATTHEW WATKINS

Violations:

Title 18, United States Code,  
Sections 371 and 2; and Title 26,  
United States Code, Sections 5861  
(b), (c), (d), (e) and (f)

**INTRODUCTION**

**THE GRAND JURY CHARGES:**

1. As used in this Indictment, "firearm" is defined by subsection (a) of Section 5845 of Title 26 of the United States Code, and "destructive device," is further defined by subsection (f) of that same section and includes any explosive or incendiary bomb or grenade. Furthermore, pursuant to subsection (a)(8) of Section 5845, "destructive devices" are "firearms."

2. As used in counts ONE through SIX of this Indictment, "destructive devices" are pipe bombs, that is, lengths of pipe

approximately six (6) to eight (8) inch long and one-half ( $\frac{1}{2}$ ) inch in diameter with threads machined onto each end, and which pipes are thereafter packed with explosive powder and shrapnel, capped at each end with endcaps that had been drilled out with small holes, and then fused through the small holes with pyrotechnic fuses.

3. At all times material to this Indictment, defendants ALEX KOSCHTSCHUK, a/k/a AL and BOSS and CLYDE UTZ, a/k/a BUTCHIE were officers of the Chosen Few Motorcycle Club ("Chosen Few") of Depew, New York and defendants JAMES LATHROP, a/k/a JIMMY, BRION MURPHY and GERALD ROGACKI, MATTHEW WATKINS, together with others, were members of the Chosen Few.

4. Beginning sometime in 2003, the exact date being unknown, the Chosen Few and a rival motorcycle club, the Lonely Ones Motorcycle Club ("Lonely Ones") of Blasdell, New York had a dispute which the officers and members of the Chosen Few attempted to "win" by, among other things, destroying the Lonely One's Blasdell, New York clubhouse and killing a member who lived in the clubhouse by making and then using pipe bombs to blow up the clubhouse and the gas line into the clubhouse.

5. The destructive devices made and possessed as a part of the plan to destroy the Lonely One's clubhouse and kill the member living in the clubhouse which form the basis of counts ONE through SIX were

neither made nor possessed in compliance with Chapter 53 of Title 26 of the United States Code ("Chapter 53"), meaning they were not made in compliance with Sections 5821 and 5822 of Title 26 of the United States Code or registered in compliance with Section 5841 of Title 26 of the United States Code.

**COUNT ONE**

**THE GRAND JURY FURTHER CHARGES:**

**THE INTRODUCTION** to this Indictment is incorporated into COUNT ONE by reference and realleged as if fully set forth herein.

**THAT**, commencing on an unknown date prior to April 6, 2004, and continuing to a date after April 6, 2004, the exact date being unknown in the Western District of New York, defendants:

ALEX KOSCHTSCHUK, a/k/a AL and BOSS,  
CLYDE UTZ, a/k/a BUTCHIE,  
JAMES LATHROP, a/k/a JIMMY,  
BRION MURPHY,  
GERALD ROGACKI, and  
MATTHEW WATKINS

unlawfully, willfully and knowingly combined, conspired confederated and agreed together, with each other and with and others, known and unknown, to violate subsections (b), (c), (d), (e) and (f) of Section 5861 of Title 26 of the United States Code.

**THAT IS TO SAY**, sometime in March of 2004, the exact date being unknown, defendant ALEX KOSCHTSCHUK manufactured approximately five (5) destructive devices (pipe bombs) in violation of Chapter 53, and thereafter transferred these destructive devices to defendants CLYDE UTZ, JAMES LATHROP, BRION MURPHY, GERALD ROGACKI, MATTHEW WATKINS, and others known to the grand jury in violation of Chapter 53, with orders that the defendants and others use and possess these destructive devices to blow up the clubhouse and the gas line into the clubhouse in furtherance of the Chosen Few's attempt to "win" its dispute with the Lonely Ones, said possession by these defendants being in violation Chapter 53.

**OVERT ACTS**

**THEREAFTER**, in furtherance of the said conspiracy, and to achieve the objects thereof, the defendants and others committed and caused to be committed the following overt acts, among others:

1. Sometime in March of 2004, defendant ALEX KOSCHTSCHUK made five (5) pipe bombs in his garage.

2. On the same day of March of 2004 on which defendant ALEX KOSCHTSCHUK made the pipe bombs, defendant JAMES LATHROP and Andy Murray tested one (1) of them.

3. On the same day of March of 2004 on which defendant ALEX KOSCHTSCHUK made the pipe bombs, KOSCHTSCHUK caused the remaining four (4) pipe bombs to be taken to and stored within the Chosen Few Clubhouse, 94 Main Street, Depew, New York.

4. Thereafter, on various dates in March and April of 2004, defendants CLYDE UTZ, JAMES LATHROP, BRION MURPHY, GERALD ROGACKI and MATTHEW WATKINS, together with Murray and Ignasiak, conducted surveillances ("did homework") on, among other locations, the Lonely Ones clubhouse.

5. About two weeks before April 6, 2004, defendant ALEX KOSTCHTSCHUK instructed Andy Murray to light the fuses on pipe bombs and throw them at the Lonely Ones clubhouse, and more particularly at the gas line into the clubhouse, in furtherance of the plan to destroy the clubhouse and kill the person who occupied the upstairs area of the clubhouse.

6. On or about April 6, 2004, defendants CLYDE UTZ, BRION MURPHY, Andy Murray and David Ignasiak drove to the vicinity of the Lonely One's clubhouse.

7. On or about April 6, 2004, Andy Murray and David Ignasiak walked from the car in which they had arrived to the Lonely One's clubhouse, where Murray lit the fuses on two (2) pipe bombs and threw

them at the clubhouse.

8. On or about April 6, 2004, members of the Chosen Few Motorcycle Club drove to the vicinity of 330 Tampa Drive, West Seneca, New York, the home of Daniel Martinez, the president of the Lonely Ones, while in possession of two (2) pipe bombs.

9. On an unknown date after April 6, 2004, defendant ALEX KOSCHTSCHUK instructed Andy Murray on how to dispose of an unused pipe bomb.

**ALL** in violation of Section 371 of Title 18 of the United States Code.

**COUNT TWO**

**THE GRAND JURY FURTHER CHARGES:**

**PARAGRAPHS ONE AND TWO OF THE INTRODUCTION** to this Indictment are incorporated into COUNT TWO by reference and realleged as if fully set forth herein.

**SOMETIME** on or about the 17<sup>th</sup> day of March of 2004, the exact date being unknown, in the Western District of New York, defendant ALEX KOSCHTSCHUK unlawfully and knowingly made firearms, namely five (5) destructive devices,

**ALL** in violation of Sections 5822, 5861(f) and 5871 of Title 26 of the United States Code.

**COUNT THREE**

**THE GRAND JURY FURTHER CHARGES:**

**PARAGRAPHS ONE AND TWO OF THE INTRODUCTION** to this Indictment are incorporated into COUNT THREE by reference and realleged as if fully set forth herein.

**SOMETIME** on or about the 17<sup>th</sup> day of March of 2004, the exact date being unknown, in the Western District of New York, defendant ALEX KOSCHTSCHUK unlawfully and knowingly transferred firearms, namely five (5) destructive devices, to Clyde Utz, James Lathrop, Brion Murphy, Gerald Rogacki, Matthew Watkins Andy Murray (deceased), and David Ignasiak,

**ALL** in violation of Sections 5822, 5861(e) and 5871 of Title 26 of the United States Code.

**COUNT FOUR**

**THE GRAND JURY FURTHER CHARGES:**

**PARAGRAPHS ONE AND TWO OF THE INTRODUCTION** to this Indictment are incorporated into COUNT FOUR by reference and realleged as if fully set forth herein.

**SOMETIME** in March of 2004, the exact date being unknown, and continuing thereafter to an unknown date, but which date included April 6, 2004, in the Western District of New York, defendants CLYDE UTZ, JAMES LATHROP, BRION MURPHY, MATTHEW WATKINS and GERALD ROGACKI, together with others, unlawfully and knowingly received and possessed firearms, namely five (5) destructive devices, made in contravention of Chapter 53,

**ALL** in violation of Sections 5812, 5861(c) and 5871 of Title 26 of the United States Code and Section 2 of Title 18 of the United States Code.

**COUNT FIVE**

**THE GRAND JURY FURTHER CHARGES:**

**PARAGRAPHS ONE AND TWO OF THE INTRODUCTION** to this Indictment are incorporated into COUNT FIVE by reference and realleged as if fully set forth herein.

**SOMETIME** in March of 2004, the exact date being unknown, and continuing thereafter to an unknown date, but which date included April 6, 2004, in the Western District of New York, defendants CLYDE UTZ, JAMES LATHROP, BRION MURPHY, MATTHEW WATKINS and GERALD ROGACKI



together with others, unlawfully and knowingly received and possessed firearms, namely five (5) destructive devices, transferred to them in contravention of Chapter 53,

**ALL** in violation of Sections 5812, 5861(b) and 5871 of Title 26 of the United States Code and Section 2 of Title 18 of the United States Code.

**COUNT SIX**

**THE GRAND JURY FURTHER CHARGES:**

**PARAGRAPHS ONE AND TWO OF THE INTRODUCTION** to this Indictment are incorporated into COUNT SIX by reference and realleged as if fully set forth herein.

**SOMETIME** in March of 2004, the exact date being unknown, and continuing thereafter to an unknown date, but which date included April 6, 2004, in the Western District of New York, defendants ALEX KOSCHTSCHUK, CLYDE UTZ, JAMES LATHROP, BRION MURPHY and MATTHEW WATKINS, together with others, unlawfully and knowingly possessed firearms, namely five (5) destructive devices (pipe bombs), not registered to them in the National Firearms Registration and Transfer Record,

**ALL** in violation of Sections 5812, 5861(d) and 5871 of Title 26 of the United States Code and Section 2 of Title 18 of the United States Code.

DATED: Buffalo, New York, March 17, 2009

KATHLEEN M. MEHLTRETTER  
Acting United States Attorney

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**A TRUE BILL:**

S/FOREPERSON  
FOREPERSON